

**State of California
Office of Administrative Law**

In re:

**California Alternative Energy and Advanced
Transportation Financing Authority**

Regulatory Action:

Title 4, California Code of Regulations

**Adopt sections: 10050, 10051, 10052,
10053, 10054, 10055,
10056, 10057, 10058,
10059, 10060**

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF CERTIFICATE OF
COMPLIANCE**


**Government Code Section 11349.1 and
11349.6(d)**

OAL File No. 2013-0423-02 C

This Certificate of Compliance makes permanent the emergency regulatory action (OAL file no. 2013-0117-03EE) adopting Article 3 beginning with Section 10050 of Division 13 of Title 4 of the California Code of Regulations. Article 3 contains regulations for the loan loss reserve program under the Clean Energy Upgrade Financing Program. These regulations establish the rules, process and procedures for the Clean Energy Upgrade Financing Program including the eligibility and evaluative criteria loans must meet in order for participating financial institutions to qualify and receive a loan loss reserve contribution.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: 5/22/2013


Peggy J. Gibson
Senior Counsel

For: DEBRA M. CORNEZ
Director

Original: Saul Acosta Gomez
Copy: Jennifer Gill

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2012 1224 02	REGULATORY ACTION NUMBER 2013-0423-02C	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Alternative Energy & Advanced Transportation Financing Authority			AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2013, 1-2	PUBLICATION DATE 1/4/2013	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) ABX1 14 Clean Energy Upgrade Financing Program	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2012-0425-01E, -0706-01E, -1019-01EE; 2013-0117-03EE
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 10050, 10051, 10052, 10053, 10054, 10055, 10056, 10057, 10058, 10059, 10060
	AMEND (none)
TITLE(S) 4	REPEAL (none)

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) March 25, 2013 - April 10, 2013
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5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) May 27, 2013

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input checked="" type="checkbox"/> Other (Specify) State Energy Resources Conservation and Development Commission			

7. CONTACT PERSON Jennifer Gill	TELEPHONE NUMBER (916) 653-3033	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) jgill@treasurer.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE April 23, 2013
TYPED NAME AND TITLE OF SIGNATORY Saul Acosta Gomez, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 22 2013

Office of Administrative Law

TEXT OF REGULATIONS
CALIFORNIA CODE OF REGULATIONS
Title 4. Business Regulations
Division 13. California Alternative Energy and Advanced Transportation
Financing Authority

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION
FINANCING AUTHORITY REGULATIONS IMPLEMENTING

THE CLEAN ENERGY UPGRADE FINANCING PROGRAM

Enacted July 16, 2012

Regulation Text Proposed January 4, 2013
Modifications to Regulation Text Posted as of March 25, 2013

Table of Contents

ARTICLE 3. CLEAN ENERGY UPGRADE FINANCING PROGRAM

Section 10050. Definitions.....	1
Section 10051. Quality Assurance Standards	2 3
Section 10052. Minimum Underwriting Criteria.....	3 4
Section 10053. Application by Financial Institution	4
Section 10054. Loan Enrollment	4 5
Section 10055. Loss Reserve Accounts	9
Section 10056. Claim for Reimbursement.....	9 10
Section 10057. Participating Financial Institution Reporting	11 12
Section 10058. Subrogation	12
Section 10059. Termination and Withdrawal from the Program	12 13
Section 10060. Reports of Regulatory Agencies	13 14

ARTICLE 3. CLEAN ENERGY UPGRADE FINANCING PROGRAM

§ 10050. Definitions.

- (a) “Authority” means the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) established pursuant to Division 16 (commencing with Section 26000 of the Public Resources Code).
- (b) “Borrower” means a property owner who is making Eligible Improvements to an Eligible Property.
- (c) “Executive Director” means the Executive Director of the Authority or his or her designee.
- (d) “Eligible Improvements” means energy saving home improvements which are Permanently Affixed to the real property and which meet the requirements as outlined in this Section.
 - (1) ~~Except as set forth in subparagraph (2), Eligible Improvements shall be recommended by a pre-project energy efficiency assessment conducted on the Eligible Property in accordance with Home Energy Rating System (HERS) Whole House or Building Performance Institute (BPI) Building Analyst requirements~~the Pre-Project Assessment, and shall be designed to achieve a minimum of ten percent (10%) total energy savings.
 - ~~(2) Where the Eligible Improvements are to be installed on behalf of a Borrower participating in a California Public Utilities Commission (CPUC)-approved residential whole-house energy efficiency retrofit program, the Eligible Improvements may be selected in accordance with that program.~~
 - (3) Eligible Improvements may also include the installation of distributed generation renewable energy sources as long as they meet the loading order requirement pursuant to Section 10051.
- (e) “Eligible Property” means a residential property of three units or less in the State of California.
- (f) “Financial Institution” means any insured depository institution, insured credit union, or community development financial institution, as those terms are each defined in Section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702); or a municipal utility district as described in Section 12850 of the Public Utilities Code.
- ~~(g)~~(g) “Independent Third-Party Inspector” means an inspector who is an owner or employee of a separate legal entity from the Qualified Contractor that is not controlled by the Qualified Contractor, and has no common ownership with the Qualified Contractor.
- (h) “Loss Reserve Account” means an account held by a Program Trustee that is established and maintained by the Authority for the benefit of a Participating Financial Institution for the purposes set forth in Section 10056.
- ~~(h)~~(i) “Loss Reserve Contribution” means the financial assistance provided by the Authority to the Loss Reserve Account for the benefit of a Participating Financial Institution for each Qualified Loan it enrolls in the Program. The initial Loss Reserve Contribution shall be not less than fifteen percent (15%) of the enrolled principal amount of the Qualified Loan until the Participating Financial Institution’s enrolled Qualified Loan volume reaches \$250,000. Thereafter, the Loss Reserve Contribution shall be not less than ten percent (10%) of the enrolled principal amount of the Qualified Loan.
- ~~(i)~~(j) “Minimum Underwriting Criteria” means the criteria established by the Authority as defined in Section 10052.

- (j) “Participating Financial Institution” means a Financial Institution that has been approved by the Authority’s Executive Director to enroll Qualified Loans in the Program and has agreed to all terms and conditions set forth in the Law and this Article.
- (k) “Permanently Affixed” means goods that have become so related to particular real property that an interest in them arises under real property law.
- (l) “Pre-Project Assessment” means an on-site pre-retrofit energy efficiency assessment performed in accordance with the California Home Energy Rating System (HERS) Whole-House Home Energy Rating, Building Performance Institute (BPI) Building Analyst Professional Standard or BPI Home Energy Auditing Standard requirements, which explicitly describes the recommended Eligible Improvements and the overall estimated energy savings anticipated by their installation.
- (m) “Post-Project Assessment” means an on-site post-retrofit energy efficiency assessment which explicitly describes the installed Eligible Improvements and overall estimated energy savings demonstrated by their installation.
- (n) “Program” means the Clean Energy Upgrade Financing Program established pursuant to Chapter 2.5 (commencing with Section 26130) of Division 16.2 of the Public Resources Code.
- (o) “Program Trustee” means a bank or trust company, or the State Treasurer, chosen by the Authority to hold or administer some or all of the Loss Reserve Accounts on behalf of the Authority.
- (p) “Qualified Contractor” means a contractor who is licensed for the work they perform and who must complete all work according to all applicable laws, rules, and regulations.
- (1) ~~For~~ Except as set forth in subparagraph (2), for energy efficiency improvements only, the work must be performed by a BPI-~~certified contractor~~ certified professional.
- (2) Where the work is being performed on behalf of a Borrower participating in a CPUC-approved residential whole-house energy efficiency retrofit program, the contractor need only meet the approval requirements of that program.
- (3) For distributed generation renewable energy sources, the work must be performed by a contractor who holds a valid A, B, C-4, C-10, C-36 or C-46 license from the California Contractors State License Board.
- (r) “Qualified Loan” means a loan or a portion of a loan made by a Participating Financial Institution to a Borrower to finance Eligible Improvements made to Eligible Properties.
- (1) A Qualified Loan is one which meets the Minimum Underwriting Criteria as established by the Authority in Section 10052.
- (2) A Qualified Loan does not include any of the following:
- (A) A loan in the form of a line of credit.
- (B) A loan for the construction or purchase of residential housing.
- (C) A loan for the refinancing of debt already held by the Participating Financial Institution other than a prior Qualified Loan enrolled under the Program, except to the extent of any increase in the outstanding balance.
- (D) Any loan which exceeds ten percent (10%) of the value of the Eligible Property as determined by the Participating Financial Institution.
- (E) Open end loans (e.g. home equity lines of credit).

Authority: Section 26071, Public Resources Code.
Reference: Sections 26070 and 26073, Public Resources Code.

§ 10051. Quality Assurance Standards.

- (a) All Eligible Improvements financed by the Program must meet applicable quality assurance standards as outlined in this Section.
- (1) ~~(1) — Pre-project energy efficiency assessment. A pre-project energy efficiency assessment conducted on the Eligible Property in accordance with HERS Whole House or BPI Building Analyst requirements~~Pre-Project Assessment. A Pre-Project Assessment is required to assist in identifying appropriate and comprehensive energy efficiency retrofits and operational improvements. The cost of the ~~pre-project energy efficiency assessment~~Pre-Project Assessment may be included as part of the total cost of the Eligible Improvements.
- (2) ~~Post-project energy assessment.~~Project Assessment. The Eligible Improvements shall be evaluated by a ~~post-project energy assessment conducted on the Eligible Property. This post-project energy assessment must be conducted by an independent third-party inspector who is a HERS Whole House Rater or a BPI Building Analyst.~~Post-Project Assessment. The cost of the ~~post-project energy assessment~~Post-Project Assessment may be included as part of the total cost of the Eligible Improvements.
- (A) Except as set forth in subparagraph (B) or (C), the Post-Project Assessment must be conducted by an Independent Third-Party Inspector who is a HERS Whole House Rater, a BPI Building Analyst or BPI Energy Auditor in accordance with the BPI Building Analyst Professional Standard or BPI Home Energy Auditing Standard.
- (B) Where the Eligible Improvements are completed on behalf of a Borrower participating in a CPUC-approved residential whole-house energy efficiency retrofit program, the Post-Project Assessment must be conducted in accordance with that program's quality assurance protocols.
- (C) Where the Eligible Improvements are completed on behalf of a Borrower participating in a residential whole-house energy efficiency retrofit program operated by a utility that is not subject to approval by the California Public Utilities Commission, the Post-Project Assessment must be conducted in accordance with the quality assurance protocols established under the Home Performance with ENERGY STAR joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy.
- (3) Distributed generation renewable energy sources final approval. If the ~~project involves~~Eligible Improvements include distributed generation renewable energy sources, a ~~certification~~copy of the letter permitting the interconnection of each distributed generation renewable energy source from the ~~Qualified Contractor that it has secured all permits and approvals needed to install the Eligible Improvements~~utility servicing the Eligible Property shall be required. If the project does not include energy efficiency improvements because the loading order requirement has been met through Section 10051(a)(4)(A)(2) or (3), the foregoing ~~Qualified Contractor certification~~letter(s) permitting interconnection shall be in lieu of the ~~post-project energy assessment~~Post-Project Assessment.

- (4) Loading order. Any project involving distributed generation renewable energy sources must be part of a single Qualified Loan in which the energy efficiency improvements achieve a minimum ten percent (10%) reduction in total property energy use.

(A) Compliance with the loading order can be established in one of ~~two~~three ways:

1. Installation of recommended Eligible Improvements necessary to achieve a minimum ten percent (10%) improvement over the pre-project baseline, as demonstrated by the ~~post-project energy assessment~~Post-Project Assessment required pursuant to subsection (a)(2) above.
2. Installation of recommended Eligible Improvements as set forth in Section 10050(d)(2).
3. Demonstrating a ~~HERS~~ HERS Index Home Energy Rating-~~(HERS)~~ score of 85 or lower provided air sealing, attic insulation, duct test and seal or replacement, and insulation of domestic hot water or replacement have all been installed if recommended by the ~~pre-project energy assessment~~Pre-Project Assessment.

Authority: Section 26071, Public Resources Code.

Reference: Section 26073, Public Resources Code.

§ 10052. Minimum Underwriting Criteria.

- (a) A Participating Financial Institution may enroll Qualified Loans that meet the Minimum Underwriting Criteria and may set more stringent underwriting criteria. A Participating Financial Institution has responsibility for underwriting decisions and legal compliance with respect to the Qualified Loans it makes pursuant to these regulations.
- (b) A Participating Financial Institution agrees that for each Qualified Loan it makes it will investigate and evaluate the creditworthiness of the applicant in a manner consistent with the regulations and its customary practices for loans in the amount proposed.
- (c) The Minimum Underwriting Criteria are:
 - (1) Loan type. Qualified Loans may be secured or unsecured closed end loans.
 - (2) Maximum loan amount. A Qualified Loan must not exceed ten percent (10%) of the value of the Eligible Property as determined by the Participating Financial Institution.
 - (3) Loan recipient. Borrowers must be the legal owners of the Eligible Property.
 - (4) Mortgage delinquencies. Borrowers must be current on their mortgage and property tax payments and not in default or in bankruptcy proceedings.

Authority: Section 26071, Public Resources Code.

Reference: Section 26073, Public Resources Code.

§ 10053. Application by Financial Institution.

- (a) A Financial Institution seeking to participate in the Program will complete a Financial Institution Application that shall include the following information:
 - (1) Name and address of applicant Financial Institution.
 - (2) Name, address, telephone and fax numbers, email address and title of contact person.

- (3) Type of Financial Institution.
- (4) A list of the anticipated geographic area(s) ~~served~~ in California where the loan program may be available, by county.
- (5) Names of the Regulatory Agency and the Insuring Agency to which the Financial Institution is accountable. This provision is not required if the Financial Institution is a municipal utility district as described in Section 12850 of the Public Utilities Code.
- (6) A detailed description of the loan program to finance Eligible Improvements, including, but not limited to anticipated loan product details, such as collateral required (if any), maximum and minimum loan amounts, interest rates (whether fixed or variable), loan terms, property type, and underwriting criteria including FICO score and debt-to-income ratio.
- (7) A detailed description of the transactional activities associated with the loan issuance, including all transactional costs such as application, loan origination, UCC-1 filing, property valuation cost, and title and tax search fees.
- (8) The mechanism by which cost savings produced by this Program are passed on to the Borrowers in the form of lower cost financing. This includes a comparison of interest rates and loan terms between existing loan products for Eligible Improvements and the interest rates the Financial Institution anticipates providing if a Qualified Loan is enrolled in the Program. If the Financial Institution does not have an existing loan product for energy efficiency or renewable energy installations, a comparison should be made of the interest rates and loan terms between other similar loan products and the proposed loan program. Include additional benefits associated with enrolling Qualified Loans in the Program, such as expanded loan terms and underwriting criteria.
- (9) Certification that the applicant Financial Institution is not subject to a cease and desist order or other regulatory sanction with the appropriate federal or state regulatory body, which would impair its ability to participate in the Program. This provision is not required if the Financial Institution is a municipal utility district as described in Section 12850 of the Public Utilities Code.
- (10) The Financial Institution's agreement to follow the Program regulations as set forth in this Article.
- (11) The Financial Institution's agreement to permit an audit of any of its records relating to enrolled Qualified Loans, during normal business hours on its premises, by the Authority or its agents, and to supply such other information concerning enrolled Qualified Loans as shall be requested by the Executive Director.
- (12) The Financial Institution's acknowledgment that the Authority and the State will have no liability to the Participating Financial Institution under the Program except from funds deposited in the Loss Reserve Account for the Participating Financial Institution.
- (13) The application shall be signed by a person authorized to bind the Financial Institution, and shall include the signatory's printed name, title and date.
- (b) Upon receipt of a completed application, the Executive Director will within ten (10) business days review and determine whether additional information is required, or whether the application is sufficient to permit the applicant to be a Participating Financial Institution. The Executive Director's decision whether an application is sufficient shall be final.

Authority: Section 26071, Public Resources Code.

Reference: Sections 26072, 26073 and 26074, Public Resources Code.

§ 10054. Loan Enrollment.

- (a) The terms and conditions of Qualified Loans, including interest rates, fees and other conditions, shall be determined solely by agreement of the Participating Financial Institution and the Borrower.
- (b) A Participating Financial Institution shall be authorized to enroll under the Program all or a part of any Qualified Loan by notifying the Authority in writing, within fifteen (15) business days after it receives a signed Certificate of Completion from the Qualified Contractor and/or Borrower certifying that the project is complete and has satisfied all Program requirements, that it is enrolling a Qualified Loan. For Qualified Loans involving multiple Certificates of Completion from Qualified Contractors, the fifteen (15)-business-day period shall start upon the date of receipt by the Participating Financial Institution of the last required Certificate of Completion.
- (c) In order to enroll a Qualified Loan, a Participating Financial Institution must submit the following documents ~~specified in subdivisions (d) through (f) of this Section:~~
 - (1) Loan Enrollment Application.
 - (2) Certificate of Completion, ~~and~~
 - (3) A copy of the ~~quality assurance documentation specified in Section 10051.~~ Pre-Project Assessment.
 - (4) A copy of the Post-Project Assessment, including, if applicable:
 - (A) If the Post-Project Assessment is conducted in accordance with the requirements of Section 10051(a)(2)(B) or (C), a copy of the utility's post-retrofit approval notification from the utility in whose service area the project is located.
 - (B) If the Eligible Improvements include a distributed generation renewable energy source, a letter permitting the interconnection of the distributed generation renewable energy source from the utility servicing the Eligible Property.
 - (C) If the project does not include energy efficiency improvements because the loading order requirement has been met through Section 10051(a)(4)(A)(2) or (3), the foregoing letter permitting interconnection shall be in lieu of the Post-Project Assessment.
 - (5) The Participating Financial Institution shall redact Borrower name, street address and any other personal identifying information from the copies of all documents prior to submission to the Authority.
- (d) The Loan Enrollment Application to the Authority shall include the following, based in part on information provided by the Borrower and the Qualified Contractor:
 - (1) Participating Financial Institution name and Program-assigned identification number.
 - (2) Loan officer name, telephone number and email.
 - ~~(3) Loan Identification Number~~ (3) Participating Financial Institution loan identification number that does not convey any personal identifying information about the Borrower.
 - (4) Borrower's FICO score and debt-to-income ratio.
 - (5) City, county and zip code where the project is located.
 - (6) Brief summary of the Eligible Improvements and the intended use of the proceeds of the Qualified Loan.

- (7) Indication whether the Qualified Loan being enrolled is in the first \$250,000 of Program Qualified Loans enrolled by the Participating Financial Institution.
 - (8) Amount of the Qualified Loan being enrolled (and indication if less than the full amount of the Qualified Loan is being enrolled).
 - (9) Type of the Qualified Loan (e.g., home equity loan, term loan, second mortgage), and whether the loan is secured.
 - (10) Date the Certificate of Completion is received by the Participating Financial Institution.
 - (11) Term and maturity date of the Qualified Loan.
 - (12) Interest rate applicable to the Qualified Loan and whether it is fixed or variable.
 - (13) The interest rate the Qualified Loan would have received had the loan not been enrolled in this Program.
 - (14) Estimated savings to the Borrower in the form of lower cost financing over the term of the loan.
 - (15) The Participating Financial Institution's estimate of the Authority's Loss Reserve Contribution to the Loss Reserve Account.
 - (16) Certification that the loan is a Qualified Loan, and that the Borrower receiving the Qualified Loan meets the Minimum Underwriting Criteria set forth in this Article.
 - (17) Certification that the ~~principal~~ total outstanding principal balance of all enrolled Qualified Loans specific to the Borrower does not exceed ten percent (10%) of the value of the Eligible Property as determined by the Participating Financial Institution.
 - ~~(18) Certification that the Participating Financial Institution has obtained a written representation from the Qualified Contractor that it has secured all permits and approvals needed to complete the retrofits.~~
 - ~~(19)~~ (18) Notification if the Participating Financial Institution has enrolled or will enroll the same loan or a portion thereof in any government program substantially similar to the Program including, but not limited to, other loan loss reserve or loan guarantee programs.
- (e) The Certificate of Completion shall be in a form specified by the Authority and shall include the following information (the Participating Financial Institution shall redact any Borrower personal identifying information prior to submission to the Authority~~);~~). The Certificate of Completion shall be signed and completed for each Eligible Property and shall be signed and completed by the primary Qualified Contractor who performed the energy efficiency and/or distributed generation energy sources work:
- (1) Information provided by the Qualified Contractor who performs the work:
 - (A) Qualified Contractor's name.
 - (B) Qualified Contractor's license number.
 - (C) Qualified Contractor's certification type(s) and certification number(s).
 - (D) If the Post-Project Assessment is conducted in accordance with Section 10051(a)(2)(A), the name and appropriate qualifying certification number of the Independent Third-Party Inspector.
 - (E) City and zip code where the project is located.
 - (2) The Qualified Contractor must also sign and date certain certifications, including:
 - (A) Certification that he or she is licensed to perform the work for which the Qualified Loan is made.
 - (B) ~~Certification that he or she is a BPI-certified contractor if~~ If performing energy efficiency improvements, certification that he or she is a BPI Certified Professional

or a contractor approved for participation in the CPUC-approved residential whole-house energy efficiency retrofit programs.

~~(C) Certification that the Eligible Improvements have been completed in accordance with the Eligible Improvements Specification Report.~~

(C) If performing distributed generation renewable energy source improvements, certification that he or she holds a valid A, B, C-4, C-10, C-36 or C-46 license from the California Contractors State License Board.

(D) Certification that all of the Eligible Improvements installed are energy saving home improvements recommended ~~by~~in the ~~pre-project~~Pre-Project Assessment, or Eligible Improvements selected in accordance with a CPUC-approved residential whole-house energy efficiency assessment conducted on the Eligible Property retrofit program.

(E) Certification that the installation complies with all applicable California building standards (all sections of Title 24), local electricity utility interconnection requirements, and any additional laws, ordinances, regulations and standards applicable in the jurisdiction where the installation occurred.

(F) Certification that ~~they have secured~~ all permits and approvals ~~needed~~required to install the Eligible Improvements have been secured.

(G) Certification ~~that the post-project energy assessment was conducted by an independent third-party inspector who is HERS or BPI-certified.~~of the quality assurance standard under which the Post-Project Assessment requirement was met in accordance with Section 10051(a)(2).

(H) If the Eligible Improvements include distributed generation renewable energy sources, ~~a~~-certification of ~~how~~the method by which the Program's loading order requirement was met.

(3) The Borrower must sign and date certain certifications, including:

(A) Certification that the Eligible Improvements ~~listed on the Eligible Improvements Specification Report~~ have been completed to their satisfaction.

(B) Certification ~~that they understand~~of understanding that the Authority and its directors, officers, and agents do not guarantee the performance, quality, or workmanship of the Eligible Improvements.

(C) Certification that the loan proceeds were used to pay for the Eligible Improvements.

(D) Acknowledgement that the Authority, to the extent allowed by these regulations, including its officers, directors, employees, agents, or designees, has received and will receive information related to the project. The Authority may use this information for program management and evaluation and shall treat the information as confidential unless otherwise required by law.

(E) Authorization for the Qualified Contractor and Participating Financial Institution to share information with the Authority, except as required by these regulations, including contract information, data on work performed and Eligible Improvements installed, information regarding the Qualified Loan, and other information relating to or arising from participation in the Program.

(F) Certification that all permits and approvals required to install the Eligible Improvements have been secured.

~~(4) Lender to complete:~~

- ~~(A) Participating Financial Institution name.~~
- ~~(B) Loan identification number.~~
- ~~(C) Participating Financial Institution address and telephone number.~~
- ~~(f) The Eligible Improvements Specification Report must be completed by the Qualified Contractor and shall include the following information (the Participating Financial Institution shall add its name and the loan identification number, and redact any Borrower personal identifying information prior to submission to the Authority):~~
 - ~~(1) General project data:~~
 - ~~(A) Project location such as city and zip code.~~
 - ~~(B) Building type.~~
 - ~~(C) Name of the Qualified Contractor's company.~~
 - ~~(D) Total project invoiced cost.~~
 - ~~(E) Qualified Loan amount.~~
 - ~~(F) Amount of rebates.~~
 - ~~(G) Project start date and project completion date.~~
 - ~~(2) General building data:~~
 - ~~(A) Year constructed.~~
 - ~~(B) Building floorspace.~~
 - ~~(C) Electricity service provider name.~~
 - ~~(D) Natural gas service provider name.~~
 - ~~(E) Other primary energy fuel.~~
 - ~~(3) Total energy savings:~~
 - ~~(A) Source or method for prediction.~~
 - ~~(B) Estimated electricity saved per year (kWh).~~
 - ~~(C) Estimated percent savings of kWh per year.~~
 - ~~(D) Estimated natural gas savings per year (therms).~~
 - ~~(E) Estimated percent savings of natural gas per year.~~
 - ~~(F) If other primary fuels are applicable, the expected annual energy savings per year in units of the energy fuel indicated, and the estimated percent savings per year.~~
 - ~~(G) Estimated annual cost savings, in dollar amount.~~
 - ~~(4) Distributed generation renewable source data:~~
 - ~~(A) Type and capacity.~~
 - ~~(B) Estimated annual cost savings, in dollar amount.~~
 - ~~(5) List of installed Eligible Improvements.~~
 - ~~(6) Quality assurance and quality control information:~~
 - ~~(A) Qualified Contractor's license number.~~
 - ~~(B) Qualified Contractor's certification types and certification numbers, if applicable.~~
 - ~~(C) Building permit numbers, if applicable.~~
 - ~~(7) This report is not intended to be a contract or replace the contract between the Qualified Contractor and the Borrower, nor is it intended to be a contract between the Authority and any other party.~~
- ~~(g)~~(f) The Participating Financial Institution shall be authorized to base the information requested in subdivisions ~~(e)~~ and ~~(f)~~ above upon representations made to it by the Borrower and/or the Qualified Contractor, provided that no such representation may be relied upon if it is known to be false by the lending officers at the Participating Financial Institution who are directly involved in the negotiation of the Qualified Loan.

- (hg) If a Borrower seeking a Qualified Loan from a Participating Financial Institution is an employee, member, director, officer, principle shareholder, or affiliate of the Participating Financial Institution, the terms and the conditions of the Qualified Loan and the internal procedures used to approve the Qualified Loan must comply with the following requirements:
- (1) If the Participating Financial Institution is a federal-chartered bank, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 371c, 371c-1, 375a, and 375b of ~~the~~ Title 12 of the United States Code, and Sections 215.4 of Title 12 of the Code of Federal Regulations.
 - (2) If the Participating Financial Institution is a state-chartered bank, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions.
 - (3) If the Participating Financial Institution is a federal-chartered savings association, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Section 1468 of Title 12 of the United States Code.
 - (4) If the Participating Financial Institution is a state-chartered savings association, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions and Sections 6503 and 6529 of the Financial Code.
 - (5) If the Participating Financial Institution is a federal-chartered credit union, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 1757 and 1761c of Title 12 of the United States Code and Section 701.21(d) of Title 12 of the Code of Federal Regulations.
 - (6) If the Participating Financial Institution is a state-chartered credit union, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions and Section 15050 of the Financial Code.
 - (7) If the Participating Financial Institution is a certified community development financial institution (CDFI), the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 1805.807 of Title 12 of the Code of Federal Regulations.
- (ih) The Authority shall, upon receipt of documentation as required under Section 10054 from the Participating Financial Institution, enroll the Qualified Loan if the Executive Director determines that the Qualified Loan meets the requirements of this Article. The Executive Director shall notify the Participating Financial Institution of enrollment within fifteen (15) business days after receipt by the Authority of all documentation required by this Article. The Executive Director's determination whether a Qualified Loan shall be enrolled in the Program shall be final.
- (ji) Upon enrollment of a Qualified Loan, the Loss Reserve Contribution shall be transferred for deposit into the Loss Reserve Account held on behalf of the Participating Financial Institution by the Program Trustee. The Participating Financial Institution will be notified of the transfer.

- (k) Without regard to the term and maturity date of the Qualified Loan, the term of enrollment in the Program shall not exceed ten (10) years.

Authority: Section 26071, Public Resources Code.

Reference: Sections 26073 and 26074, Public Resources Code.

§ 10055. Loss Reserve Accounts.

- (a) Upon the Executive Director's acceptance of an application by a Financial Institution under Section 10053, the Authority shall establish a Loss Reserve Account for that Participating Financial Institution for the following purposes:
 - (1) to receive Loss Reserve Contributions deposited by the Authority; and
 - (2) to pay claims in accordance with Section 10056.
- (b) The Loss Reserve Account shall be held by a Program Trustee selected by the Authority.
- (c) All moneys in a Loss Reserve Account are the property of the Authority. Interest or income earned on moneys credited to the Loss Reserve Account shall be deemed to be part of the Loss Reserve Account. The Executive Director shall be authorized to withdraw from the Loss Reserve Account all interest and income that has been credited to the Loss Reserve Account as set forth below and in Section 10059.
- (d) If the balance in a Participating Financial Institution's Loss Reserve Account is greater than the Participating Financial Institution's aggregate principal of its outstanding Qualified Loans for three (3) consecutive months, the Authority may withdraw the excess funds from the Participating Financial Institution's Loss Reserve Account.

Authority: Section 26071, Public Resources Code.

Reference: Sections 26073 and 26074, Public Resources Code.

§ 10056. Claim for Reimbursement.

- (a) A Participating Financial Institution shall notify the Authority within sixty (60) calendar days after it has charged off all or part of a Qualified Loan as a result of a default by the Borrower.
- (b) A Participating Financial Institution shall be authorized to make a claim for reimbursement of a loss from the enrolled portion of a Qualified Loan prior to the liquidation of collateral, or realization on personal or other financial guarantees or from other sources. A Participating Financial Institution may also defer, for a period not to exceed one hundred eighty (180) calendar days from the date of the charge-off, at its sole discretion, making a claim for reimbursement, but still must inform the Authority of charge-off status within sixty (60) calendar days.
- (c) The Authority shall pay claims within thirty (30) calendar days of receipt of a completed claim request; provided, however, that the Executive Director shall be authorized to reject a claim if it is determined that the representations and warranties provided by the Participating Financial Institution pursuant to Section 10054 at the time of enrolling the Qualified Loan were false. The Authority shall be authorized, upon providing written notice to the

- Participating Financial Institution, to defer payment of claims up to an additional thirty (30) calendar days if the Authority requires more information in order to determine if the claim shall be paid.
- (d) Claim reimbursement from all sources shall not exceed the enrolled amount of the Qualified Loan that forms the basis for the claim, except when reasonable out-of-pocket expenses are claimed. In the event only a portion of the loan was enrolled, reimbursement of out-of-pocket expenses will be limited to the ratio of the enrolled portion to the total loan amount.
 - (e) To make a claim, the Participating Financial Institution shall submit a claim application to the Authority which shall include the following information:
 - (1) Name and identification number of the Participating Financial Institution.
 - (2) Name, address, telephone number and email address of contact person.
 - (3) ~~Loan Identification Number~~ Participating Financial Institution loan identification number of the Qualified Loan that is subject of the claim.
 - ~~(4)~~ (4) Loan enrollment number.
 - ~~(5)~~ (5) Original principal amount and enrollment date of the Qualified Loan.
 - ~~(6)~~ (6) Amount of charge-off.
 - ~~(7)~~ (7) Date of charge-off.
 - ~~(8)~~ (8) Statement whether the loan is secured, and whether the Participating Financial Institution has commenced enforcement proceedings.
 - ~~(9)~~ (9) Amount of claim and breakdown of components of the claim between outstanding principal, accrued interest and reasonable out-of-pocket expenses of collection or preservation of collateral, accompanied by documentation of such expenses.
 - ~~(10)~~ (10) If two or more claims are filed simultaneously by one Participating Financial Institution, a statement of the priority of payment of the claim compared to the other claims in the event the Loss Reserve Account is not sufficient to pay all claims.
 - ~~(11)~~ (11) Certification that notice was filed with the Authority as required by this Section, and certification that such charge-off was made in a manner consistent with the Participating Financial Institution's usual methods for taking action on loans which are not enrolled as Qualified Loans under the Program.
 - ~~(12)~~ (12) Statement regarding claims made concerning the Qualified Loan with other government programs substantially similar to the Program—including but not limited to loan loss reserve or loan guarantee programs—including amounts of reimbursements anticipated or received. If no such claim is being made, the statement shall explain why and include an agreement by the Participating Financial Institution that no claim will be made, or in the event a claim is made that some or all of any reimbursement received shall be paid to the Authority in an amount necessary to ensure that the Participating Financial Institution does not receive more than the amount allowed pursuant to subdivision (d).
 - ~~(13)~~ (13) The claim application shall be signed by a person authorized to bind the Participating Financial Institution, and shall include the signatory's printed name, title and date.
 - (f) If a Qualified Loan suffers a loss and at the time of the Participating Financial Institution's claim there are insufficient funds in the Loss Reserve Account to cover the total amount of the claim, the Participating Financial Institution shall be able to withdraw all of the amount in the Loss Reserve Account at the time of the claim, to cover the loss to the fullest extent possible. If the Participating Financial Institution then continues making Qualified Loans

under the Program and the Loss Reserve Account is replenished, the Participating Financial Institution shall be authorized to withdraw funds from the Loss Reserve Account one subsequent time in order to cover the earlier claim.

- (g) If, subsequent to the payment of a claim by the Authority, the Participating Financial Institution recovers from the Borrower, from liquidation of collateral or from any other source, amounts for which the Participating Financial Institution was reimbursed by the Authority, the Participating Financial Institution shall promptly pay to the Authority, for deposit in the Loss Reserve Account, the amount received, net of reasonable and customary costs of collection, that in aggregate exceeds the amount needed to fully cover the Participating Financial Institution's loss on the Qualified Loan (including the portion of a Qualified Loan which is not enrolled in the Program). Recoveries which exceed reimbursements to the Loss Reserve Account may be retained by the Participating Financial Institution.

Authority: Section 26071, Public Resources Code.
Reference: Sections 26073 and 26074, Public Resources Code.

§ 10057. Participating Financial Institution Reporting.

- (a) A Participating Financial Institution shall provide a cumulative quarterly report to the Authority within two weeks of the end date of each quarter.
- (b) The quarterly report shall indicate the following information for each enrolled Qualified Loan:
- ~~(1) Loan Identification Number.~~
 - ~~(2) (1) Participating Financial Institution loan identification number.~~
 - ~~(2) Loan enrollment number.~~
 - ~~(3) Maturity date of the loan.~~
 - ~~(34) Total loan amount (original amount of loan).~~
 - ~~(45) Total enrolled amount outstanding (today's balance or enrolled amount, whichever is less).~~
 - ~~(56) The standard delinquency status of all outstanding Qualified Loans and collections, if any.~~
 - ~~(67) Any inchoate losses or acceleration notices.~~
 - ~~(78) Closed Qualified Loans shall be reported in the quarter they pay or charge off as a zero balance. Once the Participating Financial Institution has reported the Qualified Loan as zero, it does not need to be included on future quarterly reports and the Qualified Loan may be removed from the quarterly report at that time.~~
 - ~~(8) For Qualified Loans that resulted in a claim payment to the Participating Financial Institution, the quarterly report shall also include the following information:~~
 - ~~(A) Date of charge off.~~
 - ~~(B) Claim amount paid.~~
 - ~~(C) Recovery dates.~~
 - ~~(D) Recovery amounts.~~
- (c) If a Participating Financial Institution becomes subject to a cease and desist order or other regulatory sanction with the appropriate federal or state regulatory body, the Participating

Financial Institution shall inform the Authority in writing within thirty (30) calendar days of such action.

- (d) If at any time an enrolled Qualified Loan is enrolled in another substantially similar government program, the Participating Financial Institution must notify the Authority of such enrollment.
- (e) If a Participating Financial Institution changes the loan term within the allowed term of enrollment in the Program, the Participating Financial Institution must notify the Authority. Under no circumstances shall the Authority provide additional Loss Reserve Contributions for a Qualified Loan whose loan term has changed, nor will the Authority extend the time for which a claim may be filed beyond the ten (10) years set forth in Section 10054(j).

Authority: Section 26071, Public Resources Code.

Reference: Sections 26073 and 26074, Public Resources Code.

§ 10058. Subrogation.

- (a) The Authority will be subrogated to the rights of the Participating Financial Institution in collateral, personal guarantees and all other forms of security for the Qualified Loan including reimbursement claims that may be made with other government programs substantially similar to the Program including, but not limited to, other loan loss reserve or loan guarantee programs that have not been realized by the Participating Financial Institution, when the Participating Financial Institution's loss has been fully covered by payment of a loss claim, or by a combination of payment of a loss claim and recovery from the Borrower, liquidation of collateral, or from other sources.
- (b) At the time of subrogating its rights, the Participating Financial Institution shall provide the Authority with all original security agreements, any documents evidencing title to real property, certificates of title, guarantees, and any other documents representing security for the Qualified Loan, duly recorded and perfected, and accompanied by enforceable assignments and conveyances to the Authority, unless such security documents also secure indebtedness to the Participating Financial Institution which was not covered by the Qualified Loan. In such latter case, the Participating Financial Institution shall enter into an intercreditor agreement with the Authority, providing that the Participating Financial Institution shall be entitled to recover under such security documents, to the extent possible, the full amount of its loss on any indebtedness not covered by the Qualified Loan but secured by the same collateral as the Qualified Loan; the balance of any amounts recovered under such security documents shall be deposited in the Loss Reserve Account. The Participating Financial Institution shall provide monthly reports, and as requested by the Executive Director, concerning its activities in collecting moneys owed from a defaulted Borrower.

- (c) The Executive Director shall be authorized to enter into agreements with any Participating Financial Institution to provide for such institution to act as the Authority's agent to secure recovery under any agreement, collateral or security documents to which the Authority has been subrogated.

Authority: Section 26071, Public Resources Code.

Reference: Sections 26073 and 26074, Public Resources Code.

§ 10059. Termination and Withdrawal from the Program.

- (a) A Participating Financial Institution shall be authorized to withdraw from the Program after giving written notice to the Authority. Such notice shall specify either:
 - (1) that the Participating Financial Institution waives any further interest in the Loss Reserve Account (including for the reason that all Qualified Loans covered by the Loss Reserve Account have been repaid); or
 - (2) that the Participating Financial Institution will not enroll any further loans under the Program but that the Loss Reserve Account shall continue in existence to secure all Qualified Loans enrolled prior to such notice.
- (b) After receipt of a notice under subsection (a)(1) or receipt of a certificate from a Participating Financial Institution which has withdrawn from the Program pursuant to subsection (a)(2), certifying that all Qualified Loans secured by the Loss Reserve Account have been repaid and that there are no pending claims for reimbursement under Section 10056, the remaining balance in the Loss Reserve Account shall be distributed to the Authority.
- (c) The Executive Director shall be authorized to terminate participation of a Participating Financial Institution in the Program, by notice in writing, upon the occurrence of any of the following:
 - (1) Entry of a cease and desist order, regulatory sanction, or any other action against the Participating Financial Institution by a regulatory agency that may impair its ability to participate in the Program; or
 - (2) Failure of the Participating Financial Institution to abide by the Law or this Article; or
 - (3) Failure of the Participating Financial Institution to enroll any Qualified Loans under the Program for a period of one year; or
 - (4) Provision of false or misleading information regarding the Participating Financial Institution to the Authority, or failure to provide the Authority with notice of material changes in submitted information regarding the Participating Financial Institution. In the event of such termination, the Participating Financial Institution shall not be authorized to enroll any further Qualified Loans, but all previously enrolled Qualified Loans shall continue to be covered by the Loss Reserve Account until they are paid, claims are filed, or the Participating Financial Institution withdraws from the Program pursuant to Section 10059(a).

Authority: Section 26071, Public Resources Code.

Reference: Sections 26073 and 26074, Public Resources Code.

§ 10060. Reports of Regulatory Agencies.

- (a) The Executive Director shall be authorized to seek information directly from any federal or state regulatory agency concerning any Participating Financial Institution participating in the Program.

Authority: Section 26071, Public Resources Code.

Reference: Sections 26073 and 26074, Public Resources Code.